

APPEAL NO. 010450

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 7, 2001. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury in the form of right carpal tunnel syndrome (CTS); that the date of injury is _____; that the claimant timely reported the injury to her employer on June 5, 2000; and that the claimant had disability, as a result of her compensable injury, from May 30 to September 11, 2000. In its appeal, the appellant (carrier) contends that those determinations are against the great weight of the evidence. In her response to the carrier's appeal, the claimant urges affirmance.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment. Section 408.007. The date of injury, when the claimant knew or should have known that the CTS may be related to the employment, is generally a question of fact for the hearing officer to resolve. It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer's determination that the date of injury was _____, and that the claimant reported the injury to her employer timely is supported by the evidence. Similarly, whether the claimant's activities were sufficiently repetitive to cause the right CTS and whether the right CTS rendered the claimant unable to obtain or retain employment at her preinjury wage were also factual determinations for the hearing officer to resolve. The hearing officer found for the claimant on these disputed issues and such findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

In her response to the carrier's request for review, the claimant asks the Appeals Panel to answer several procedural questions related to payment of the claim by the carrier. The claimant's response, while filed timely as a response, was not submitted within the time allowed for filing an appeal; consequently, her questions will not be addressed in this decision. However, given the procedural nature of the questions asked, it appears that the questions would be more appropriately directed to an ombudsman or customer assistance representative in the field office managing the claimant's claim.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

CONCUR IN RESULT:

Susan M. Kelley
Appeals Judge